IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15884 of 2004

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Between:

Sathaiah Chary, S/o Bramhaiah,
R/o Cheela Sagar Village, Mulugu Mandal,

Medak District

..... PETITIONER

AND

-

1 The Government of A.P., rep. by its Secretary,

Panchayat Raj and Rural Development,
Secretariat, Hyderabad
2 The District Collector (Pt.Wing), Sanga Reddy, Medak

District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the suspension order dated 27-08-2004 in proceedings No.978/2004/A2-Pts issued by the 2nd respondent as illegal, arbitrary and unconstitutional and consequently set aside the same

Counsel for the Petitioner: MR.U.RAMANJANEYULU

Counsel for Respondents: GP FOR PANCHAYAT RAJ &

RURAL DEVELOPMENT

The Court at the admission stage made the following :

ORDER:

The petitioner, who was elected as Sarpanch of Cheelasagar Gram Panchayat of Mulugu Mandal, Medak District was served with show cause notice dated 16-8-2004 under Section 248(6) of the A.P. Panchayat Raj Act, 1994 (for short 'the Act') for abuse of powers and misuse of funds, on two charges, namely, for demolition of the Mahila Mandali building without any Gram Panchayat resolution and for auctioning bricks for Rs.4000/- and not collecting the amount from the bidder thereby causing loss to the Gram Panchayat.

In response to the same, the petitioner submitted his explanation stating that the Mahila Mandali building situated besides the Gram Panchayat office was an incomplete structure put up by the Mahila Mandali nearly about 24 years back, which was not in use and in a dilapidated condition and would be useful for Gram Panchayat for further development. Hence, the Gram Panchayat has decided to erect shopping complex in the said place from SGRY funds for which necessary resolution has also been passed on 25-1-2003. As regards the other charge, the petitioner submitted that he auctioned the bricks by conducting open auction in favour of Sri L. Venkatesham, who was the highest bidder but he has not remitted the amount. But subsequent to the issuance of show cause notice he has remitted the amount of Rs.4,000/- on 23-8-2004 and pleased to drop the action proposed in show cause notice.

On such explanation being made by the petitioner, the District Collector vide impugned proceedings dated 27-8-2004 passed final orders stating that since the petitioner has accepted non-remittance of the amount by the highest bidder and stated that the amount was remitted after issuance of show cause notice, he was pleased to drop the said charge. But on verification of the record 11 irregularities were found apart from the earlier two charges. Hence, the petitioner was suspended for a period of three months.

Admittedly the 11 charges, which are now taken into account for consideration, are not known to the petitioner since they are not mentioned in the show cause notice nor explanation was called for from the petitioner. In view of the same, the impugned order passed by the first respondent to the extent suspending the petitioner for a period of three months is set aside. The impugned order can be treated only as show cause notice for the irregularities pointed out therein, for which the petitioner has to submit his explanation within a period of three weeks from the date of receipt of a copy of this order. On such explanation being filed, the Collector shall pass appropriate orders, after giving due opportunity to the petitioner.

The Writ Petition is accordingly disposed of at the admission stage.

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A. Gopal Reddy, J.

7th September, 2004.

Js.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Government of A.P., Panchayat Raj and

Rural Development, Secretariat, Hyderabad

2 The District Collector (Pt.Wing), Sanga Reddy, Medak

District

3 2 CCs to G.P. for Panchayat Raj and Rural Development, High

Court Buildings, Hyderabad.

4 2 CD copies.